



regard to this Report between January 19 and January 22, 2013, via telephone and email.

The remaining individual plaintiffs are “Bankruptcy-Trustee” plaintiffs (collectively with the “Class Plaintiffs” and the “Individual Plaintiffs,” “Plaintiffs”) represented by Lash & Wilcox on behalf of the following Chapter 7 debtors: Thomas J. Carollo; Mark P. and Susan H. Counihan; Cynthia Darin, Mark Allen Daunce; Tawfek Dawhajre; Eunice Dixon; Denna Marie Dorcak; Brenda L. Ervin; Martin G. and Kelley D Giddens; William D. Grant; Kathleen Star Green; Charles Hirst; Mark J. and Lynne J. Rice; Felicia G. Robinson; Sarah Lee Subotkowski; Curran F. Thomas; Robert Kenneth and Kimberley Dawn Tomlinson; Robert Allen and Patricia Pauline Turcotte; Jennifer E. Warne, Melanie J. Watson. Capital One counsel Eileen Hunter and Erin Hoffman met and conferred with bankruptcy-trustee counsel Brian Shrader on January 22, 2013, and exchanged subsequent emails, and met and conferred with Gus Centrone on January 24, 2013.

Capital One counsel Eileen Hunter also conferred with counsel for each of the other defendants between January 22 and January 24, 2013 via email and obtained authority to speak on the behalf of each in this Report.

## **2. Initial Disclosures.**

The parties in some of the cases exchanged initial disclosures under Rule 26(a)(1) before their cases were included in the MDL. The parties in other cases have not yet exchanged Rule 26(a)(1) disclosures. Class counsel also intend to file a consolidated, amended complaint that may include new named plaintiffs. To the extent initial disclosures have not yet been completed, Plaintiffs, Capital One, and all co-defendants agree that the parties will do so by **April 16, 2013**.

## **3. Discovery Plan.**

Plaintiffs, Capital One, and all co-defendants agree that the Court and parties should address two case-management issues through a preliminary Pretrial Scheduling Order. First, lead and liaison counsel should be designated who have the authority to speak for all plaintiffs. Second, Plaintiffs should file the Amended Consolidated Complaint that they contemplate, and Defendants should answer or otherwise respond to that complaint to frame the issues. After those steps have occurred, counsel with authority can meet and confer regarding the schedule, and the Court can enter an Amended Pretrial Scheduling Order. The parties believe that this process can be completed by April and propose the following deadlines:

Plaintiffs propose lead and liaison counsel:  
Objections by plaintiffs to proposed lead or  
liaison counsel

**February 7, 2013**

**February 14, 2013**

|   |                          |
|---|--------------------------|
| Designation by Court of lead and liaison counsel:       | <b>February 21, 2013</b> |
| Filing of consolidated, amended Class Action Complaint: | <b>February 28, 2013</b> |
| Answer to Plaintiffs' amended complaint:                | <b>March 29, 2013</b>    |
| Submission of Amended Joint Rule 26(f) Report:          | <b>March 29, 2013</b>    |
| Submission of Joint E-Discovery Plan:                   | <b>March 29, 2013</b>    |
| Status conference to set Pretrial Schedule:             | <b>April 9, 2013</b>     |

In addition, for all Individual Plaintiffs who, by **February 7, 2013**, have provided to counsel for Capital One the number that they allege was called by Capital One in violation of the TCPA, Capital One will produce the customer agreement associated with that number, the account information/notes associated with that number, and call logs showing calls made by Capital One to called numbers on a rolling basis to plaintiffs, but no later than **April 5, 2013**.

#### **4. Other Items:**

(a) **Request for meeting:**

Plaintiffs, Capital One, and all co-defendants ask to meet with the Court on **April 9, 2013**, after Defendants' Answers to the Consolidated Amended Complaint has been filed and for the purpose of addressing an Amended Pretrial Scheduling Order.

(b) **Pretrial Conference:**

Plaintiffs, Capital One, and all co-defendants ask the Court to delay scheduling a Pre-Trial Conference until after the class certification motion has been decided.

(c) **Plaintiffs' deadline for amending pleadings and joining parties:**

Class Plaintiffs, Capital One, and all co-defendants ask the Court to require Class Plaintiffs to file the contemplated Amended Consolidated Complaint by **February 28, 2013**. Plaintiffs, Capital One, and all co-defendants ask the Court to delay scheduling the final dates to file amended pleadings and to join parties until after the submission of the amended Joint Rule 26(f) Report.

(d) **Final Date for Filing Dispositive Motions:**

Plaintiffs, Capital One, and all co-defendants ask the Court to delay scheduling the final dates to file dispositive motions until after the submission of the amended Joint Rule 26(f) Report.

(e) **Prospects for Settlement:**

The parties have exchanged proposals and are in discussions concerning the potential for settlement of this case, including preliminary discussions to explore timing and the appropriate ADR procedure.

(f) **ADR Procedures That May Enhance Settlement Prospects:**

The parties are engaged in discussions regarding the prospect of private mediation.

(h) **Submission of Rule 26(a)(3) witness lists, etc.:**

(i) **Final Dates to File Objections Under Rule 26(a)(3):**

(j) **Suggested Trial Date and Estimate of Trial Length:**

Plaintiffs, Capital One, and all co-defendants ask the Court to delay scheduling trial-related deadlines until after the submission of the Amended Joint Rule 26(f) report.

Dated: January 24, 2013

/s/ Eileen M. Hunter

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On Behalf of All Defendants*

Dated: January 24, 2013

/s/ Beth E. Terrell (with consent)

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Dated: January 24, 2013

/s/ Keith James Keogh (with consent)

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*Counsel for Plaintiff: Charles C. Patterson on  
behalf of himself and all others similarly  
situated.  
On Behalf of All Individual Plaintiffs Other  
Than the Trustee-Plaintiffs*

Dated: January 24, 2013

/s/ Brian L. Shrader (with consent)

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*On Behalf of Trustee-Plaintiffs*

**CERTIFICATE OF SERVICE**

I certify that on January 24, 2013, a copy of the foregoing **REPORT OF THE PARTIES' PLANNING MEETING** was filed electronically. Notice of this filing will be sent to all counsel of record by operation of the Court's electronic filing system.

/s/ Eileen M. Hunter

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